IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 6395 OF 2005

Tejas Dattaguru Pendurkar ... Petitioner
Versus
Maharashtra State Board of Secondary & Higher Secondary Education and Ors. Respondents

Mr. V.S. Gokhale for Petitioner.
Ms. Deepa Chavan i/by Little & Co. for Respondents.

CORAM : F.I. REBELLO &
DR.D.Y.CHANDRACHUD,JJ.
DATED : MARCH 03, 2006

P.C.

. The Petitioner appeared for the Higher Secondary certificate examination conducted by the Respondent in March, 2005. Upon publication of his results, the Petitioner was certified as having received 61% marks in the subject of Information Technology. The petitioner applied for verification of his marks. According to the Respondents, by a communication dated 22.6.2005, the Petitioner was informed that upon reverification, the marks had not been found to be changed. This petition was therefore, instituted. The relief sought is the issuance of a writ of certiorari quashing the communication by the Respondents on 22.6.2005. Further a writ of mandamus has been sought directing the respondents to reassess the answer papers and to allot to the petitioner such marks as

are found after the papers are reassessed.

. When this petition came up for admission, the learned counsel appearing on behalf of the Petitioner drew the attention of this court to the judgment of a Division Bench in Akshay Vs. State of Maharashtra in Writ Petition No. 4484 of 2005 delivered on 21.7.2005. In that case the Division Bench had issued a direction to the Board directing to carry out reassessment of the answers papers of the students who had moved the court. By an order dated 7.10.2005, we recorded that the view of the Division Bench prima facie appeared to be inconsistent with the view of the Supreme Court in Maharashtra State Board of Secondary and Higher Secondary Education and another Vs. Paritosh Bhupesh Kurmansheth, reported in 1984 S.C. 1543. The Supreme Court in that judgment upheld the validity of Regulation 104 of the Regulations framed by the Respondent Board. Regulation 104(3) specifically provides that no candidate shall be entitled to revaluation of his answer papers. The following question came to be framed by the Division Bench :

"Whether after the validity of Regulation

> 104 has been upheld by the Apex Court in Maharashtra State Board of Secondary and Higher Secondery Education and another Vs. Paritosh Bhupesh Kurmansheth (supra), is it open for the Court to order revaluation on the ground that there are cases which amount to an exception to the rule, as held by the Learned Division Bench at Aurangabad in Akshay (supra)."

. The learned counsel appearing on behalf of Respondents has placed on the record of these proceedings, the judgment of the Full Bench was dated 2.2.2006. The Full Bench has answered the reference by holding that the view of the Division Bench in Akshay Bhalerao's case cannot be upheld in view of the law laid down by the Supreme Court in Paritosh Bhupesh Kurmarseth's case. In view of the judgment of the Full Bench, the Petitioner is clearly not entitled to seek revaluation of his answer papers having regard to the specific prohibition contained in the Regulation 104(3) of the Regulations. In the circumstances, Petition will have to be dismissed. Accordingly petition dismissed. No order as to costs.

(F.I. REBELLO,J.)

(DR. D.Y. CHANDRACHUD,J.)